

Australian International Development Network (AIDN)'s wrap up and response to the Productivity Commission's inquiry into Australian Philanthropy final report: "Future foundations for giving"

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About AIDN

AIDN's primary purpose is to advocate for more and better international giving and investing from Australians. We encourage collaboration, highlight the good and urgent work being done in the sector and foster an environment for the exploration of what 'better' and 'more' giving means today. We do this through coordinating, encouraging and facilitating initiatives between the private sector, corporate, government, philanthropists and investors ultimately leading to greater international engagement from Australia.

A "once in a generation" opportunity:

In 2022, the Australian Government committed to working with the philanthropic, not-for-profit (NFP) and business sectors to double philanthropic giving by 2030. In 2023, it asked the Productivity Commission to undertake an inquiry to analyse motivations for philanthropic giving in Australia and identify opportunities to grow it further.

- In May 2023, alongside 250+ other organisations and individuals, AIDN submitted our [recommendations](#) as part of the Commission's call for initial submissions;
- In October 2023, AIDN produced a "philanthropy inquiry [wrap-up](#)" after reviewing a number of the 250+ public submissions, particularly those relevant to the international development sector;
- In January 2024, the Commission produced a [draft inquiry report](#);
- In February 2024, AIDN produced [our response](#) to the draft inquiry report - where we mapped out how the three most consistent themes identified in AIDN's "philanthropy inquiry [wrap-up](#)" were either addressed or where we sought further clarification;
- In July 2024, the Productivity Commission released their final report: "Future foundations for giving" (See the [overview](#); see the full [inquiry report](#) or see the [summary webinar](#)).

In this document, we first summarise the key takeaways from the “Future foundations for giving” final report - for both domestic and international organisations, charities and donors. We then summarise the key findings of the final report for our network - with a particular emphasis on the recommendations relevant to Australian charities, organisations or donors operating or giving internationally. Finally, we further point to two themes that were regularly highlighted by our network (end of life giving and a national giving campaign) whereby the Commission produced findings but did not propose further recommendations for policy change.

1. Overall key takeaways from the “Future foundations for giving” final report - for both domestic and international organisations, charities and donors (Overview p.2):

- Philanthropy contributes to a better society by providing money, time, skills, assets or lending a voice to people and communities who would otherwise have lower quality outcomes or have less access to goods and services.
- Philanthropy in Australia is increasing and government policies are supporting this growth. The Productivity Commission’s recommendations reinforce the foundations for philanthropy in Australia, so that the benefits of giving can continue to be realised into the future.
- The deductible gift recipient (DGR) system is not fit for purpose and should be reformed.
- An independent organisation should be established to strengthen relationships between Aboriginal and Torres Strait Islander organisations and philanthropic networks.
- Reforms are needed to enhance the regulatory framework for charities and to support high levels of public trust and confidence in charities now and into the future.
- The Commission has designed policy principles to inform the minimum distribution that ancillary funds are required to make each year to charities for the benefit of the wider community.
- The Australian Government should create more value for the public from the data collected about charities and giving, including by publishing aggregate information on corporate giving and by requiring listed companies to be more transparent to stakeholders about their giving.

2. AIDN’s response to and summary of the final report - with a focus on recommendations or findings that are relevant to Australian organisations, charities or donors operating or giving internationally.

Drawing upon our earlier “philanthropy inquiry wrap-up”, in addition to ongoing conversations and insights from our network, there were a number of key findings and subsequent recommendations from the final report that AIDN either welcomes or believes are relevant for our network:

Reforming the Deductible Gift Recipient (DGR) system

The need to simplify, streamline and reform the process for charities to be granted DGR status, and thus allow donations to the relevant charity to be tax deductible for more donors, was a consistent theme in many initial submissions to the Productivity Commission. Consequently, AIDN welcomed:

Recommendation 6.1: A simpler, refocused deductible gift recipient (DGR) system that creates fairer and more consistent outcomes for donors, charities and the community ([Overview](#) p.26); and

Recommendation 6.2: Supporting reforms to improve the deductible gift recipient (DGR) system ([Overview](#) p. 27).

Moving forward, the Commission has proposed a comprehensive overhaul of the DGR system and to apply a principles-based framework to assess and improve the DGR system. There should be three criteria to determine if a class of charitable activity is within the scope of the DGR system.

- First, there is a rationale for taxpayer support because the activity is expected to generate net community-wide benefits and would otherwise likely be undersupplied.
- Second, there are net benefits from providing government support for the activity through subsidising philanthropy (as opposed to other government funding mechanisms, like grants).
- Third, there is unlikely to be a material risk of converting tax-deductible donations to private benefits for donors.

In particular, AIDN welcomed the expansion of the DGR system to include organisations that focus on advocacy. The fact that advocacy organisations are not eligible for DGR status under the current system was flagged in a number of the initial submissions ([Effective Altruism Australia #34](#); [Jesuit Social Services #165](#); [Minderoo Foundation #270](#)). This issue has also been regularly raised in relation to organisations working internationally, such as Australian charities seeking to address poverty abroad. For example, at present, only organisations that *directly relieve* poverty can attain DGR status. Organisations that *advocate* for poverty alleviation cannot attain DGR status. However, poverty is a complex and multidimensional phenomenon ([World Bank](#)). To tackle poverty both domestically and abroad, organisations whose purpose is to prevent poverty, raise awareness of it, or advocate more broadly for structural changes that underpin inequality and poverty, such as law reform, should also be included. Consequently, AIDN welcomed recommendations 6.1 and 6.2 that explained that:

“The reforms would also expand access to DGR status for charities that prevent disadvantage, charities that promote human rights or reconciliation, animal welfare charities, charities focused on injury prevention, and public interest journalism. Charities undertaking advocacy activities in furtherance of other included charitable purposes would also become eligible for DGR status, such as social welfare and human rights organisations that advocate for policy change” ([Overview p. 9](#))

Moreover, AIDN further welcomed the following paragraph on p.10 of the [Overview](#):

“Charities that pursue multiple eligible purposes would also find it easier to access DGR status because eligible entities would only need one DGR endorsement from the Australian Taxation Office (ATO), which would cover all eligible activities. This would assist charities that support groups of people rather than a single activity. For example, charities that support women, young people, Aboriginal and Torres Strait Islander people and communities, LGBTIQA+ people, or consumers”.

AIDN also welcomes this recommendation because, at present, one issue with the current DGR system is that organisations can only obtain DGR status for one particular purpose at a time. This causes issues for organisations that work across multiple purposes, even if these multiple purposes have significant cross-over or are naturally related. For example, a corporate foundation may be interested in addressing the dual purposes of both poverty alleviation and environment causes. Despite the fact that it is increasingly shown that climate change and poverty are inherently intertwined ([World Vision](#), [OECD](#)), the corporate foundation would need to set up two different charities to address these two different causes.

That said, as the examples given focus on groups of people, it is still not entirely clear if the proposed expansion of the DGR status includes dual purposes (such as activities or programs). Moving forward, AIDN hopes the expansion includes dual purposes.

Regulatory arrangements that support donor confidence

AIDN has long argued that public trust and donor confidence are cornerstones of “more” and “better” giving in the international development sector. Public trust and donor confidence are also cornerstones for supporting domestic giving. Consequently, AIDN welcomed the following statement and subsequent recommendations:

“Effective and proportionate regulation of charities is essential to maintain the trust and confidence of donors, taxpayers and the beneficiaries of the goods and services that are provided by charities. Regulators should have a sufficient range of enforcement tools to adopt a graduated, risk-based approach to regulation and enable proportionate responses to misconduct. Donors (as well as regulators) are largely unable to observe whether charities use donations for their intended purposes. While most charities take their obligations to donors, the public and governments seriously and act within the law, well-designed regulation can give the community confidence that funds are being used for charitable purposes. This can influence whether a person will donate and how much they donate”. (Overview p. 15)

Recommendation 7.1 A more transparent and consistent approach to regulating charities (Overview p. 27);

Recommendation 7.2 Strengthening the Australian Charities and Not-for-profits Commission (Overview p. 28);

Recommendation 7.3 Review of charities law by the Australian Law Reform Commission (Overview p. 28);

Recommendation 7.4 Increasing certainty about Australian Charities and Not-for-profits Commission regulation (Overview p. 28);

Recommendation 7.5 Regulatory architecture to improve coordination and information sharing among regulators (Overview p. 29).

In particular, it is worth elaborating on 7.2 and 7.5.

(7.2) would enable the ACNC to:

- require a charity to provide information necessary to form an opinion on whether it is a ‘federally regulated entity’;
- require a charity undergoing revocation of its ACNC registration to evidence the distribution of its net assets to an eligible entity, unless the ACNC Commissioner waives that requirement; and
- have standing so it can seek orders in the Supreme Courts of all jurisdictions, where necessary, to protect charitable assets.

And (7.5) establish a National Charity Regulators Forum (Forum) to build the necessary regulatory architecture for this network of regulators. It would clarify roles and responsibilities, facilitate closer collaboration and information sharing, progress charities law and regulation reform, support the identification and management of regulatory risks, and enable coordination of responses in the event of large-scale misconduct.

Structured giving vehicles could be enhanced

Throughout our work, AIDN is increasingly witnessing PAFs and PuAFs engaging with international giving. Ancillary funds are trusts established for the purpose of providing money, property or benefits to eligible entities with DGR status, where donors receive a tax deduction for donations into the fund. Ancillary funds must make a minimum distribution to eligible charities each year. The minimum distribution rate is the main policy lever available to the Government to ensure a reasonable and steady flow of funds to charities from ancillary funds for the benefit of the wider community. In this context, the following recommendations are also relevant for various members of our networks operating under PAFs or PuAFs:

Recommendation 8.1 Improving the effectiveness and performance of ancillary funds for the whole community ([Overview](#) p. 30)

Recommendation 8.2 Enabling distributions of funds to be smoothed over three years ([Overview](#) p. 30)

In particular, the Commission explained that there is no explicit or widely held rationale or principles-based framework that explains the minimum distribution rates for ancillary funds. Consequently, moving forward, the Commission has identified three principles to determine the minimum distribution rate for ancillary funds and other supporting regulation.

- Ancillary funds should operate for the purpose of supporting entities with DGR status to further their charitable purposes and provide benefit to the community.
- The minimum distribution rate should be set to facilitate the desire of some ancillary funds to operate in perpetuity without guaranteeing that all ancillary funds do so or incentivising that particular outcome.
- The minimum distribution rate should be appropriately targeted so that charities receive funding when they need it most.

The Commission has recommended that the Australian Government should set the minimum distribution rate at between 5% and 8% for ancillary funds. The exact rate should be based on the Government's assessment of the trade-off between distributions to charities now versus the future, potential impacts of future inflows into ancillary funds and further consultation with the philanthropic and charitable sectors.

Improving information that is available to donors and the public

Finally, in addition to the need for enhanced charity regulation to enhance donor and public confidence, AIDN has long argued that improving the information available to donors and the public is likewise a cornerstone of “more” and “better” giving both in international development and domestic giving. In this context, AIDN also welcomed the following recommendations:

Recommendation 9.1 Enhance information published by the Australian Charities and Not-for-profits Commission ([Overview](#) p. 31)

Recommendation 9.2 Introduce enhanced disclosure and reporting of corporate giving ([Overview](#) p. 31)

Recommendation 9.3 Improve data on charitable bequests ([Overview](#) p. 32)

Recommendation 9.4 Improve the usefulness of public information sources on volunteering ([Overview](#) p. 32)

In particular, the Commission is proposing (9.1) that the ACNC enhance information on charities and giving for donors and the public by:

- collecting and presenting data in ways that are more meaningful and accessible to donors and the wider public
- raising public awareness of the ACNC charity register.
- There is also scope to enhance the ACNC charity register.

Moreover, to combat the fact there is little detailed public information on giving, aside from tax-deductible donations by individuals. The Commission recommends that:

- (9.2) The transparency of corporate giving and accountability to shareholders, consumers, employees and the broader public could be increased by requiring listed companies to publicly report itemised information on their donations of money, goods and time to entities that have DGR status.
- (9.3) Additionally, the ATO should require listed companies to report charitable donations of money and assets as an item in their company tax return, allowing the ATO to regularly publish aggregated data on corporate giving.
- (9.4) The ABS should be resourced to gather data on informal volunteering and time spent in formal and informal volunteering in the Census and annually through a survey such as the General Social Survey.

3. Themes that were regularly highlighted by our network where the Commission did produce findings but did not propose further recommendations for policy change.

Finally, drawing upon our “philanthropy inquiry [wrap-up](#)”, and insights from our network, there were a number of key themes that were regularly highlighted by our network where the Commission did produce findings but did not propose further recommendations for policy change. These included:

Encouraging Later-in-Life or Legacy Giving opportunities for Australians

The topic of legacy giving, through gifts in wills or bequeathing of superannuation balances, was regularly highlighted throughout initial 2023 Productivity Commission submissions by both organisations with domestic and international foci (Fundraising Institute of Australia #134; Philanthropy Australia #162). However, in response to these recommendations, the Report found that “there is no case for reducing superannuation taxes for bequests” (Finding 8.1 [Overview](#) p.31). The report went on:

“The current tax arrangements for superannuation treat a donation to a charity in the same way as a payment to any other non-dependant beneficiary. The tax system is not neutral in death and provides a larger tax benefit for the superannuation component of an estate. Adding further concessions at the time of death would be a relatively costly way for the Australian Government to incentivise philanthropic giving.”

The need for a national giving campaign

A further theme that emerged in our “philanthropy inquiry wrap-up”, and featured in AIDN’s own initial [submission](#), was the need for a national giving campaign. In particular, several initial submissions highlighted the desire for a campaign to inspire Australians, normalise and enhance community understanding of the value of philanthropy, and to highlight to the public simple and practical ways to give (Alannah & Madeline Foundation #47; Nobel Ambition #131; AIDN #143; Philanthropy Australia #162; The Smith Family #216). It was argued that a giving campaign should target markets with great potential for growth, including high net-worth Australians and businesses (Philanthropy Australia #162). AIDN’s own submission also argued that such a campaign would be important for dispelling stubborn and ongoing myths related to international giving.

However, Finding 10.1 was that “a government-funded public campaign could help broaden participation in giving, but there is insufficient evidence to conclude that such an intervention would be effective” ([Overview](#) p.33).

We thank the Productivity Commission for their ongoing work on this Inquiry.

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